

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

CHARLES THOMAS CLAGETT III,  
Petitioner,  
v.  
UNITED STATES OF AMERICA,  
Respondent.

C00-1816-RSM  
(CR97-265-RSM)

**ORDER TRANSFERRING  
PETITIONER'S MOTION  
TO NINTH CIRCUIT**

Respondent.)

The Court, having reviewed petitioner's motion to reopen his § 2255 motion, the Report and Recommendation of the Honorable Mary Alice Theiler, United States Magistrate Judge, any objections thereto, and the remaining record, does hereby find and ORDER:

(1) The Court adopts the Report and Recommendation.

(2) This case is hereby TRANSFERRED to the Ninth Circuit Court of Appeals,

pursuant to 28 U.S.C. § 1631 and Circuit Rule 22-3(a). Petitioner is advised that this transfer alone does not constitute compliance with 28 U.S.C. § 2244(b)(3) and Circuit Rule 22-3; he must still file a motion for leave to proceed in the Court of Appeals and make the showing required by § 2244(b). Petitioner is referred to this statute and Circuit Rule 22-3 for further information.

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1                     (3)     The Clerk is directed to close this case and transfer all original documents to the  
2 Ninth Circuit Court of Appeals. The Clerk shall, however, retain a copy of the motion and of this  
3 Order in the file. The Clerk is directed to send a copy of this Order to petitioner and to Judge  
4 Theiler.

5                     DATED this 7 day of September 2005.

6                     

7                     RICARDO S. MARTINEZ  
8                     UNITED STATES DISTRICT JUDGE